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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/849,400	05/19/2004	Timothy Graham Frank	02581-P0556A	6980

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ST. ONGE STEWARD JOHNSTON & REENS, LLC  
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STAMFORD, CT 06905-5619

EXAMINER
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MENDOZA, MICHAEL G

ART UNIT	PAPER NUMBER
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3734

MAIL DATE	DELIVERY MODE
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05/22/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/849,400	<b>Applicant(s)</b> FRANK ET AL.	
	<b>Examiner</b> Michael G. Mendoza	<b>Art Unit</b> 3734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 February 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. It is unclear to the examiner as to that is released and what is held. The holding portion can be locked in an open position and in a closed position. The claims do not specify what configuration is considered released and locked. In other words, the configuration in fig. 1b is in an end position that can be considered locked, and fig. 1c can be considered released from that particular end position.

4. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131

USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 14 recites the broad recitation at least one force transmission element, and the claim also recites a push-pull rod which is the narrower statement of the range/limitation.

5. Claim 2 recites the limitation "the opening direction" in line 3. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 3 recites the limitation "the proximal end" in line 3. There is insufficient antecedent basis for this limitation in the claim.

7. Claim 3 recites the limitation "the center" in line 4. There is insufficient antecedent basis for this limitation in the claim.

8. Claim 4 recites the limitation "the center" in line 2. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 4 recites the limitation "the interval" in line 3. There is insufficient antecedent basis for this limitation in the claim.

10. Claim 4 recites the limitation "the free end" in line 4. There is insufficient antecedent basis for this limitation in the claim.

11. Claim 6 recites the limitation "the proximal end" in line 3. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 6 recites the limitation "the center" in line 4. There is insufficient antecedent basis for this limitation in the claim.

13. Claim 7 recites the limitation "the center" in line 2. There is insufficient antecedent basis for this limitation in the claim.

14. Claim 7 recites the limitation "the upper end" in line 3. There is insufficient antecedent basis for this limitation in the claim.
15. Claim 7 recites the limitation "the rotatable handgrip" in line 5. There is insufficient antecedent basis for this limitation in the claim.
16. Claim 7 recites the limitation "the rotatable jaw" in line 5. There is insufficient antecedent basis for this limitation in the claim.
17. Claim 7 recites the limitation "the proximal" in line 7. There is insufficient antecedent basis for this limitation in the claim.
18. Claim 8 recites the limitation "the center" in line 2. There is insufficient antecedent basis for this limitation in the claim.
19. Claim 8 recites the limitation "the lower end" in line 3. There is insufficient antecedent basis for this limitation in the claim.
20. Claim 8 recites the limitation "the rotatable handgrip" in line 5. There is insufficient antecedent basis for this limitation in the claim.
21. Claim 8 recites the limitation "the rotatable jaw" in line 5. There is insufficient antecedent basis for this limitation in the claim.
22. Claim 8 recites the limitation "the proximal" in line 6. There is insufficient antecedent basis for this limitation in the claim.
23. Claim 10 recites the limitation "the center" in line 2. There is insufficient antecedent basis for this limitation in the claim.
24. Claim 11 recites the limitation "the distal side " in line 4. There is insufficient antecedent basis for this limitation in the claim.

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25. Claim 11 recites the limitation "the proximal side one rigid abutment bearer" in line 5. There is insufficient antecedent basis for this limitation in the claim.

26. Claim 12 recites the limitation "the abutment bear" in line 5. There is insufficient antecedent basis for this limitation in the claim.

27. Claim 12 recites the limitation "the proximal end" in line 7. There is insufficient antecedent basis for this limitation in the claim.

28. Claim 12 recites the limitation "the rotatable handgrip" in line 8. There is insufficient antecedent basis for this limitation in the claim.

***3Claim Rejections - 35 USC § 102***

29. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

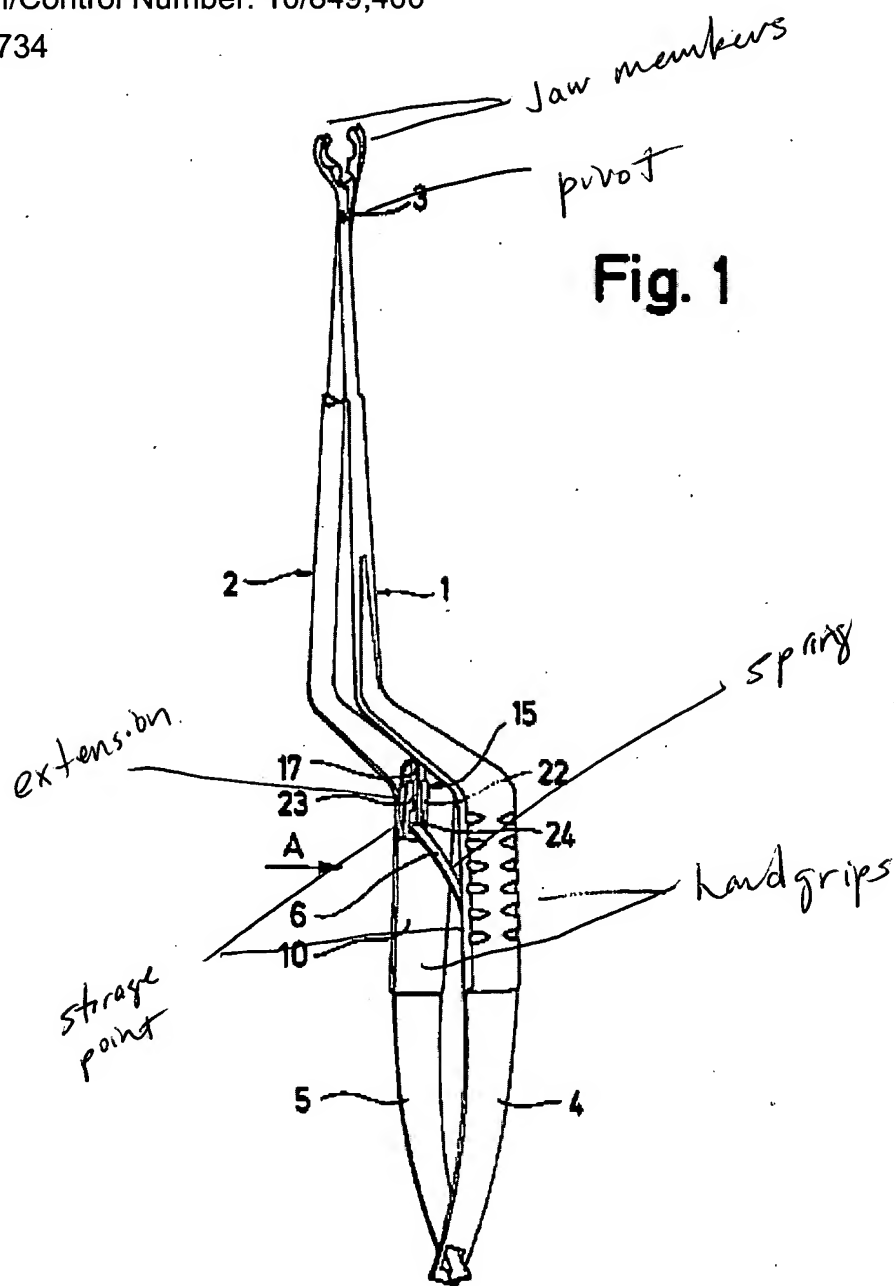
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

30. Claim 1-4, 9, 10, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwarz et al 4462404.

31. Schwarz et al. teaches a material grasping and holding instrument with a handle consisting of two handgrips and a holding portion that consists of at least two jaw members, a spring element, an end position that releases the holding portion, an end position that locks the holding portion, wherein the spring element configured as a flat spring and connecting the two handgrips to one another is mounted between the handgrips of the handle in such a way of a storage point of a handgrip on the spring element between two end positions that relax the spring element; wherein the spring

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element is mounted so that is pretensioned between the handgrips; wherein the spring element is stored with one end at a storage point in the area of the proximal end of a handgrip and the other end at a storage point in the center area of the other handgrip; an extension, on the free end of which extension the spring element is stored; wherein both handgrips of the handle are configured in one piece and rigidly connected in each case with one jaw member of the holding portion, where the handgrips or jaw member crossing one another, are stored so that they can swivel around a common pivot point; wherein the storage point where the spring element in the center area of the handgrip is stored, is arranged on an arc around the pivot point



### Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Mendoza whose telephone number is (571) 272-4698. The examiner can normally be reached on Mon.-Fri. 9:00 a.m. - 5:00 p.m..



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on (571) 272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



MM



MICHAEL J. HAYES  
SUPERVISORY PATENT EXAMINER